

AMENDED IN ASSEMBLY AUGUST 6, 2012

AMENDED IN SENATE MAY 25, 2012

AMENDED IN SENATE APRIL 23, 2012

SENATE BILL

No. 1266

Introduced by Senator Corbett

February 23, 2012

An act to amend Sections 5096.501 and ~~5096.511~~ 5096.512 of, to add Section 5096.510 to, *to repeal Section 5096.511 of*, and to repeal and add Section 5096.517 of, the Public Resources Code, relating to state lands.

LEGISLATIVE COUNSEL'S DIGEST

SB 1266, as amended, Corbett. Resource conservation lands: appraisal process.

Existing law authorizes various state agencies to acquire land for purposes related to conservation, and requires an acquisition agency, as defined, prior to any action by the acquisition agency to approve a major acquisition of conservation lands, to contract for at least one independent appraisal of the fair market value of the land. A "major acquisition" is defined as an acquisition for which an agency proposes to spend more than \$25,000,000 of state funds.

This bill would redefine major acquisition as an acquisition for which an agency proposes to spend more than \$15,000,000 of state funds. The bill would ~~also revise the provisions requiring an appraisal to instead~~ require that, if ~~more than \$1,000,000 of~~ state funds are proposed for expenditure or grant by an acquisition agency of *any* conservation lands, ~~including major acquisitions~~, the acquisition agency or the project partner, as defined, shall contract for an *independent* appraisal. The bill

would require that the appraisal, *appraiser*, and *contract* meet specified requirements. The bill would also allow the project partner or landowner to contribute to the cost of the appraisal, be identified as a user of the appraisal, and be named as the coclient of the appraiser or firm preparing the appraisal except, on and after January 1, 2015, the bill would prohibit the landowner from being named as a coclient of the appraiser or firm preparing the appraisal.

Existing law requires the Department of General Services to convene a workgroup to develop and adopt standards, subject to the approval of the Natural Resources Agency, with respect to the acquisition of conservation lands concerning the appraisal process, availability of appraisal information, and valuation for purposes of a charitable contribution, as prescribed.

This bill would repeal those provisions requiring the department to convene a workgroup and would instead require that, in addition to any other requirements or standards prescribed by law, appraisal reports prepared for the acquisition of any land or interest therein by or with funding from an acquisition agency, as defined, include specified information, and meet specified requirements to be considered for appraisal review by the state.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 5096.501 of the Public Resources Code
- 2 is amended to read:
- 3 5096.501. For purposes of this chapter, the following terms
- 4 have the following meanings:
- 5 (a) “Acquisition agency” means the Wildlife Conservation
- 6 Board, the Department of Parks and Recreation, or a state
- 7 conservancy.
- 8 (b) “Conservation lands” means any land or interest therein to
- 9 be acquired by an acquisition agency, or that is owned by the state.
- 10 (c) “Major acquisition” means an acquisition for which an
- 11 agency proposes to spend more than fifteen million dollars
- 12 (\$15,000,000) of state funds.
- 13 (d) “Project partner” means a public agency or nonprofit
- 14 organization that is seeking state funding for itself or for another

public agency or nonprofit organization, from an acquisition agency for the acquisition of conservation lands.

(e) *“Specialty interests” means those partial property interests that may exist on a property and that can require specialized knowledge and experience to value, including, but not limited to, timber, water, minerals, or carbon credits.*

SEC. 2. Section 5096.510 is added to the Public Resources Code, to read:

5096.510. (a) (1) ~~If more than one million dollars (\$1,000,000) of state funds are proposed for expenditure or grant by an acquisition agency of conservation lands, including major acquisitions, the acquisition agency or the project partner shall contract for an independent appraisal of the land in compliance with this section. The appraisal shall meet all applicable requirements of this chapter and any other applicable state laws and policies, and shall conform to Uniform Standards of Professional Appraisal Practice. The~~

(2) *The project partner or landowner may contribute to the costs of the appraisal, be identified as an intended user of the appraisal, and be named as the coclient of the appraiser or firm preparing the appraisal. However, on and after January 1, 2015, a landowner shall not be named as a coclient of the appraiser or firm preparing the appraisal.*

(b) *The appraisal shall meet all of the following requirements:*

(1) *The appraisal shall meet all applicable requirements of this chapter and any other applicable state laws and policies, and shall conform to Uniform Standards of Professional Appraisal Practice.*

(2) *The appraisal shall not involve a fee based on a percentage of the property’s appraised value or the allowed deduction.*

(3) *The appraisal shall not be prepared by an appraiser that has a financial interest in the property being appraised, including, but not limited to, being the seller or donor, a party to the seller’s acquisition of the property, or employed by or related to any of the above.*

(c) *The acquisition agency or project partner that contracts for the appraisal shall select an appraiser that is qualified to appraise the specific property based upon verifiable education, experience, and knowledge of appropriate methodologies, techniques, and the real estate market relevant to the specific property. The following requirements shall also apply:*

1 (1) If the project to be appraised is a conservation easement,
2 the appraiser's education shall include advanced-level educational
3 courses or certifications in the valuation of conservation
4 easements.

5 (2) If the project to be appraised includes more than nominal
6 value for specialty interests, the acquisition agency or project
7 partner that contracts for the appraisal shall include provisions
8 in the contract that effectuate the following, as applicable:

9 (A) The professional valuing the specialty interest shall comply
10 with the requirements of paragraph (5) of subdivision (a) of Section
11 5096.517.

12 (B) The professional valuing the specialty interests shall be
13 qualified to appraise the specific specialty interests based upon
14 verifiable education, experience, and knowledge of appropriate
15 methodologies, techniques, and the markets relevant to the specific
16 specialty interests.

17 (C) For a major acquisition, the professional valuing the
18 specialty interests, including a professional under subcontract,
19 shall be an appropriately licensed or certified real estate appraiser
20 in good standing pursuant to Part 3 (commencing with Section
21 11300) of Division 4 of the Business and Professions Code, and
22 its implementing regulations.

23 (D) For other than major acquisitions, the contract shall include
24 a statement expressing a preference for contracting with an
25 appraiser that uses, including under subcontract, a professional
26 for valuing specialty interests who is an appropriately licensed or
27 certified real estate appraiser in good standing pursuant to Part
28 3 (commencing with Section 11300) of Division 4 of the Business
29 and Professions Code, and its implementing regulations.

30 ~~SEC. 3. Section 5096.511 of the Public Resources Code is~~
31 ~~amended to read:~~

32 ~~5096.511. Prior to any action by an acquisition agency to~~
33 ~~approve a major acquisition of conservation lands, the acquisition~~
34 ~~agency or project partner shall contract for at least one independent~~
35 ~~appraisal of the fair market value of the land. The appraisal shall~~
36 ~~be conducted by a qualified member of the Appraisal Institute who~~
37 ~~is licensed pursuant to Part 3 (commencing with Section 11300)~~
38 ~~of Division 4 of the Business and Professions Code. The appraisal~~
39 ~~shall be prepared pursuant to the Uniform Standards of Professional~~
40 ~~Appraisal Practice.~~

1 *SEC. 3. Section 5096.511 of the Public Resources Code is*
2 *repealed.*

3 ~~5096.511. Prior to any action by an acquisition agency to~~
4 ~~approve a major acquisition of conservation lands, the acquisition~~
5 ~~agency shall contract for at least one independent appraisal of the~~
6 ~~fair market value of the land. The appraisal shall be conducted by~~
7 ~~a qualified member of the Appraisal Institute who is licensed~~
8 ~~pursuant to Part 3 (commencing with Section 11300) of Division~~
9 ~~4 of the Business and Professions Code. The appraisal shall be~~
10 ~~prepared pursuant to the Uniform Standards of Professional~~
11 ~~Appraisal Practice.~~

12 *SEC. 4. Section 5096.512 of the Public Resources Code is*
13 *amended to read:*

14 5096.512. (a) In addition to the review by the Department of
15 General Services pursuant to Section 1348.2 of the Fish and Game
16 Code, the appraisal prepared pursuant to ~~Section 5096.511~~ *for a*
17 *major acquisition of land* shall be reviewed by a qualified
18 independent appraiser retained by the acquisition agency for this
19 purpose, and who meets the following conditions:

20 (1) The review appraiser did not conduct the appraisal pursuant
21 to ~~Section 5096.511~~ *5096.510* and has no financial interest in the
22 major acquisition.

23 (2) The review appraiser is licensed pursuant to Part 3
24 (commencing with Section 11300) of Division 4 of the Business
25 and Professions Code.

26 (b) The review appraiser shall review the appraisal and prepare
27 an appraisal review report, *in a narrative format*, that does all of
28 the following:

29 (1) Summarizes the appraisal.

30 (2) States the basis on which the value of the land was
31 established.

32 (3) Describes the standards used to prepare the appraisal.

33 (4) Determines whether or not the appraisal meets the standards
34 established under the Uniform Standards of Professional Appraisal
35 Practice.

36 (c) The appraisal review report need not include any proprietary
37 information provided by or on behalf of the seller or that is
38 otherwise exempt from public disclosure pursuant to the California
39 Public Records Act (Chapter 3.5 (commencing with Section 6250)
40 of Division 7 of Title 1 of the Government Code).

(d) (1) If a major acquisition of conservation lands will be approved by more than one acquisition agency and each acquisition agency complies with paragraph (2), not more than one independent appraisal is required pursuant to Section ~~5096.511~~ 5096.510, and not more than one appraisal review report is required pursuant to this section.

(2) Paragraph (1) is applicable if each acquisition agency does all of the following:

(A) Utilizes the independent appraisal and appraisal review report, as required by this chapter.

(B) Makes an independent determination of whether to approve the major acquisition of conservation lands.

(C) Complies with all of the public disclosure and independent review requirements of this chapter.

~~SEC. 4.~~

SEC. 5. Section 5096.517 of the Public Resources Code is repealed.

~~SEC. 5.~~

SEC. 6. Section 5096.517 is added to the Public Resources Code, to read:

5096.517. (a) In addition to any other requirements or standards prescribed by law, appraisal reports prepared for the acquisition of any land or interest therein by or with funding from an “acquisition agency,” as defined in subdivision (a) of Section 5096.501, shall include all of the following to be considered for appraisal review by the state:

(1) A collection of descriptive photographs and maps of sufficient quality and detail to clearly depict the subject property and any market data relied upon, including the relationship between the location of the subject property and the market data.

(2) A complete description of the subject property land, site characteristics, and improvements. Valuations based on a property’s development potential shall include:

(A) Verifiable data on the development potential of the land.

(B) A description of what would be required for a development project to proceed, such as legal entitlements, and infrastructure needs.

(C) Presentation of evidence that sufficient demand exists, or is likely to exist in the future, to provide market support for the development.

1 (3) A statement by the appraiser indicating to what extent land
2 title conditions were investigated and considered in the analysis
3 and value conclusion. The appraisal shall also include a preliminary
4 appraisal report when such a report is available.

5 (4) A discussion of implied dedication, prescriptive rights, or
6 other unrecorded rights as described in Sections 801 to 813,
7 inclusive, and Sections 1006 to 1009, inclusive, of the Civil Code,
8 that may affect value, indicating the extent of investigation and
9 any knowledge or observation of conditions that might indicate
10 evidence of public use. If the appraiser has no knowledge of, or
11 has not observed, those conditions, a statement to that effect shall
12 be included in the appraisal report.

13 (5) An appraisal report that includes more than nominal value
14 for specialty interests, including, but not limited to, timber, water,
15 minerals, or carbon credits, shall include a separate valuation
16 prepared and signed by a certified or registered professional
17 qualified in the field of specialty interest. This valuation shall be
18 reviewed and approved by a second qualified, certified or registered
19 professional, considered by the appraiser, and appended to the
20 appraisal report.

21 (b) Each appraisal report shall be prepared by, and include a
22 signature by an appropriately licensed or certified real estate
23 appraiser in good standing pursuant to Part 3 (commencing with
24 Section 11300) of Division 4 of the Business and Professions Code,
25 and its implementing regulations.